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Co-Counsel to the Defendant Han Benefit Advantage, Inc.

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY**

In re:

HEALTH TECH HARBOR, INC.,

Debtor.

Chapter 7

Case No. 20-19017 (RG)

In re:

HEALTH TECH HARBOR, INC.,

Plaintiff,

v.

**HAN BENEFIT ADVANTAGE INC D/B/A
BENADVANCE,**

Defendant.

Adv. Pro. No. 21-01278 (RG)

**PLEADINGS ACCOMPANYING NOTICE
OF REMOVAL OF STATE COURT CIVIL ACTION**

The attached docket and pleadings are submitted pursuant to D.N.J. LBR 9027-

1(c) by Defendant Han Benefit Advantage, Inc. in connection the *Notice of Removal of State*

Court Civil Action to Bankruptcy Court [Doc. No. 1] (the “Notice of Removal”). The attached docket and pleadings relate to the Civil Action previously pending in the Superior Court of New Jersey, Bergen County, Case No. BER-L-2665-21, which was removed to the United States Bankruptcy Court for the District of New Jersey pursuant to 28 U.S.C. § 1452, Fed. R. Bankr. P. 9027 and D.N.J. LBR 9027-1, filed on May 21, 2021.

Dated: May 21, 2021

Respectfully submitted,

LOWENSTEIN SANDLER LLP

/s/ Joseph J. DiPasquale

Joseph J. DiPasquale, Esq.

Arielle B. Adler, Esq.

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Roseland, New Jersey 07068

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E-mail: (kharrington@homlegal.com)

Co-Counsel to the Defendant

Han Benefit Advantage, Inc.

Attachment No. 1

| | | | | |
|--|---|---|--|--|
|  | <h2 style="margin: 0;">Civil Case Information Statement</h2> <h3 style="margin: 0;">(CIS)</h3> <p style="margin: 5px 0 0 40px;">Use for initial Law Division Civil Part pleadings (not motions) under <i>Rule</i> 4:5-1 Pleading will be rejected for filing, under <i>Rule</i> 1:5-6(c), if information above the black bar is not completed or attorney's signature is not affixed</p> | | <p style="margin: 0;">For Use by Clerk's Office Only</p> <p style="margin: 0;">Payment type: <input type="checkbox"/> ck <input type="checkbox"/> cg <input type="checkbox"/> ca</p> <p style="margin: 0;">Chg/Ck Number: _____</p> <p style="margin: 0;">Amount: _____</p> <p style="margin: 0;">Overpayment: _____</p> <p style="margin: 0;">Batch Number: _____</p> | |
| | Attorney/Pro Se Name Mitchell Malzberg, Esq. | | Telephone Number (908) 323-2958 | |
| | Firm Name (if applicable) Law Offices of Mitchell J. Malzberg, LLC | | County of Venue Bergen ▼ | |
| | Office Address PO Box 5122, 6 E. Main Street, Suite 7, Clinton, NJ 08809 | | Docket Number (when available) Document Type Complaint Jury Demand <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | |
| Name of Party (e.g., John Doe, Plaintiff) Health Tech Harbor, Inc., Plaintiff | | Caption Health Tech Harbor Inc. v. Han Benefit Advantage Inc. d/b/a Benadvance | | |
| Case Type Number (See reverse side for listing) 502 | Are sexual abuse claims alleged? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | Is this a professional malpractice case? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <small>If you have checked "Yes," see N.J.S.A. 2A:53A-27 and applicable case law regarding your obligation to file an affidavit of merit.</small> | | |
| Related Cases Pending? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | | If "Yes," list docket numbers | | |
| Do you anticipate adding any parties (arising out of same transaction or occurrence)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | | Name of defendant's primary insurance company (if known) <input type="checkbox"/> None <input checked="" type="checkbox"/> Unknown | | |
| The Information Provided on This Form Cannot be Introduced into Evidence. | | | | |
| Case Characteristics for Purposes of Determining if Case is Appropriate for Mediation | | | | |
| Do parties have a current, past or recurrent relationship? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | | If "Yes," is that relationship: <input type="checkbox"/> Employer/Employee <input type="checkbox"/> Friend/Neighbor <input type="checkbox"/> Other (explain) <input type="checkbox"/> Familial <input checked="" type="checkbox"/> Business | | |
| Does the statute governing this case provide for payment of fees by the losing party? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | | | | |
| Use this space to alert the court to any special case characteristics that may warrant individual management or accelerated disposition | | | | |
|  Do you or your client need any disability accommodations? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | | If yes, please identify the requested accommodation: | | |
| Will an interpreter be needed? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | | If yes, for what language? | | |
| I certify that confidential personal identifiers have been redacted from documents now submitted to the court and will be redacted from all documents submitted in the future in accordance with <i>Rule</i> 1:38-7(b). | | | | |
| Attorney Signature:  | | | | |

Mitchell Malzberg, Esq.
Attorney ID No. 016641993
Law Offices of Mitchell J. Malzberg, LLC
P.O. Box 5122
6 East Main Street, Suite 7
Clinton, NJ 08809
(908) 323-2958
Attorney for Plaintiff

| | | |
|-----------------------------|---|------------------------------|
| HEALTH TECH HARBOR, INC., | : | SUPERIOR COURT OF NEW JERSEY |
| | : | LAW DIVISION: BERGEN COUNTY |
| Plaintiff, | : | |
| | : | DOCKET NO: |
| vs. | : | |
| | : | Civil Action |
| HAN BENEFIT ADVANTAGE, INC. | : | |
| d/b/a BENADVANCE | : | COMPLAINT |
| | : | |
| Defendants. | : | |

Plaintiff, Health Tech Harbor, Inc (the “Plaintiff”), having its main office at 200 Murray Hill Parkway, East Rutherford, New Jersey 07073, by way of Complaint says:

COUNT ONE

1. Plaintiff is a private lender pursuant to a certain Demand Promissory Note dated December 31, 2017. (**Exhibit “A”**)

2. On December 31, 2017, defendant, Han Benefit Advantage, Inc. d/b/a BenAdvance (the “Borrowers”) executed and delivered to Plaintiff a Demand Promissory Note (the “Note”). The cumulative advances pursuant to the Note total the sum of \$2,166,058.78 together with accrued, unpaid interest of \$144,654.47 and continued interest.

3. Under the Note, Borrower was to make payment in full the principal due on the Note on Demand. (the “Maturity Date”) Interest shall accrue at a yearly rate of 3% per annum from the date of the loan until all the principal is paid in full.

4. Demand for payment under the Note was made on July 24, 2020 and was not made. (Exhibit “B”)

5. The Note further provides that Plaintiff is entitled to collect all expenses and costs incurred to collect the amounts due under the Note including, but not limited to reasonable attorneys’ fees and costs incurred by Plaintiff.

6. The Borrower has defaulted and is in breach under the terms of the Note by its failure to pay the total amounts due under the Note by July 31, 2020, the Maturity Date. The Loan Document entitles the Plaintiff to collect, without limitation, the outstanding principal, all unpaid and accrued interest, attorney’s fees and costs, and a late fee in addition to the accrued and continued interest shall continue to accrue at the rate of 3% per annum.

WHEREFORE, Plaintiff, Health Tech Harbor, Inc., demands Judgment on Count One of its Complaint against the Defendant, HAN Benefit Advantage, Inc. d/b/a BenAdvance in the sum of \$2,310,713.25, plus accrued and additional interest, late fees, costs of suit, attorney’s fees, disbursements and court costs.

COUNT TWO

7. Plaintiff reasserts and realleges each and every allegation stated above as if set forth at length herein.

8. There is due from the Defendant, HAN Benefit Advantage, Inc. d/b/a BenAdvance to the Plaintiff(s) the sum of \$2,310,713.25, on a certain book account, a true copy of which is annexed hereto. Payment has been demanded and has not been made.

9. The Plaintiff sues the Defendant HAN Benefit Advantage, Inc. d/b/a BenAdvance for goods sold, monies loaned and delivered and/or services rendered by the Plaintiff to the Defendant, upon the promise by the Defendants to pay the agreed amount as

set forth in Schedule "A" annexed hereto. Payment has been demanded and has not been made.

10. The Plaintiff sues the Defendant HAN Benefit Advantage, Inc. d/b/a BenAdvance for the reasonable value of goods sold and delivered, and/or services rendered by the Plaintiff to the Defendants upon the promise of the Defendants to pay a reasonable price for the same, as set forth in Schedule "A" annexed hereto. Payment has been demanded and has not been made.

11. The Defendant, HAN Benefit Advantage, Inc. d/b/a BenAdvance being indebted to the Plaintiff in the sum of \$2,310,713.25 upon an account stated between them, did promise to pay to the Plaintiff said sum upon demand. Payment has been demanded and has not been made.

12. Plaintiff is entitled to accrued interest, attorney's fees due to non-payment and breach by the Defendants.

WHEREFORE, Plaintiff demands Judgment on Count Two of its Complaint against the Defendant, HAN Benefit Advantage, Inc. d/b/a BenAdvance, in the sum of \$2,310,713.25, together with lawful interest, attorney fees, and costs of this suit.

LAW OFFICES OF MITCHELL J. MALZBERG, LLC

By: /s/ Mitchell Malzberg, Esq.
MITCHELL MALZBERG, ESQ.
Attorney to the Plaintiff(s)

Dated: April 20, 2021

CERTIFICATION

I HEREBY CERTIFY pursuant to R. 4:5-1(b)(2) that to the best of my knowledge, there exists no other action pending in any court or in arbitration concerning this action. To my knowledge, all parties who should be joined in this action have been joined.

I HEREBY CERTIFY that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willingly false, I am subject to punishment.

LAW OFFICES OF MITCHELL J. MALZBERG, LLC

By: /s/ Mitchell Malzberg, Esq.
MITCHELL MALZBERG, ESQ.
Attorney to the Plaintiff(s)

Dated: April 20, 2021

CERTIFICATION

I certify that confidential personal identifiers have been redacted from documents now submitted to the Court, and will be redacted from all documents submitted in the future in accordance with Rule 1:38-7(b).

LAW OFFICES OF MITCHELL J. MALZBERG, LLC

By: /s/ Mitchell Malzberg, Esq.
MITCHELL MALZBERG, ESQ.
Attorney to the Plaintiff(s)

Dated: April 20, 2021

Health Tech Harbor, Inc
200 Murray Hill Parkway
East Rutherford, New Jersey 07073

TO: HAN BENEFIT ADVANTAGE, INC. d/b/a BENADVANCE
411 Theo Fremd Avenue, Suite 132
Rye, NY 10580

| | |
|-------|----------------|
| TOTAL | \$2,310,713.25 |
|-------|----------------|

SCHEDULE A

EXHIBIT “A”

DEMAND PROMISSORY NOTE

December 31, 2017

New York

FOR VALUE RECEIVED, HAN Benefit Advantage, Inc., Inc., a Delaware corporation dba BenAdvance (the "Company"), hereby promises to pay to the order of Health Tech Harbor, Inc., a Delaware corporation ("Lender"), or Lender's successors, endorsees and assigns, on written demand at any time following the date hereof, the principal amount plus interest from and including the date hereof on the principal balance from time to time outstanding, computed daily, at a rate per annum equal to 3%, as per the schedule Exhibit A. Interest shall be calculated on the basis of the actual number of days elapsed over a year of 365 days.

This Promissory Note (the "Note") will be registered on the books of the Company or its agent as to principal and interest. Any transfer of this Note will be effected only by surrender of this Note to the Company and reissuance of a new note to the transferee. This Note may be prepaid in whole or in part at any time, without premium or penalty. This Note is a general unsecured obligation of the Company.

The Company hereby waives presentment, demand, notice of dishonor, protest, notice of protest and all other demands, protests and notices in connection with the execution, delivery, performance, collection and enforcement of this Note. The Company shall pay all costs of collection when incurred, including reasonable attorneys' fees, costs and expenses.

In the event any one or more of the provisions of this Note shall for any reason be held to be invalid, illegal or unenforceable, in whole or in part or in any respect, or in the event that any one or more of the provisions of this Note operate or would prospectively operate to invalidate this Note, then and in any such event, such provision(s) only shall be deemed null and void and shall not affect any other provision of this Note and the remaining provisions of this Note shall remain operative and in full force and effect and in no way shall be affected, prejudiced, or disturbed thereby.

This Note may only be amended, modified or terminated by an agreement in writing signed by the party to be charged. This Note may not be assigned by the Company without the prior written consent of Lender. This Note shall be binding upon the permitted successors and assigns of the Company and inure to the benefit of the Lender and its permitted successors, endorsees and assigns.

This Note shall be governed by and construed and enforced in accordance with the laws of the State of New York as applied to other instruments made by New York residents to be performed entirely within the State of New York.

[Signature Page Follows]

EXECUTED as of the date set forth above.

HAN Benefit Advantage Inc.

By: 

Name: Anthony V. Milone

Title: CEO

ACKNOWLEDGED AND AGREED:

HEALTH TECH HARBOR, INC.

By: 

Name: Lawrence Margolis

Title: CEO Designate

[Signature Page to Health Tech Harbor Inc. Demand Note]

EXHIBIT “B”

Health Tech Harbor, Inc.
20 Murray Hill Parkway, Suite 210
East Rutherford, NJ 07073

July 24, 2020

HAN Benefit Advantage, Inc.
411 Theo Fremd Ave. Suite 132
Rye, NY 10580

Attn: Anthony Milone, CEO

Dear Tony:

As you know, HAN Benefit Advantage, Inc. issued a Demand Note on December 31, 2017 to the order of Health Tech Harbor, Inc. for advances made to the Borrower. The cumulative advances were \$2,256,336.34. Demand is hereby made for the repayment of said advances, together with accrued, unpaid interest. Please ensure that these monies are paid no later than one week from the date of this letter. If payment is not made, appropriate legal action will be taken against the borrower.

Health Tech Harbor, Inc.

By: 
LAWRENCE MARGOLIS, CEO

Civil Case Information Statement

Case Details: BERGEN | Civil Part Docket# L-002665-21

Case Caption: HEALTH TECH HARBOR, INC. VS HAN BENEFIT ADVANTA

Case Initiation Date: 04/21/2021

Attorney Name: MITCHELL J MALZBERG

Firm Name: MITCHELL J. MALZBERG, LLC

Address: 6 EAST MAIN ST STE 7 PO BOX 5122

CLINTON NJ 08809

Phone: 9083232958

Name of Party: PLAINTIFF : Health Tech Harbor, Inc.

Name of Defendant's Primary Insurance Company
(if known): Unknown

Case Type: BOOK ACCOUNT (DEBT COLLECTION MATTERS ONLY)

Document Type: Complaint

Jury Demand: NONE

Is this a professional malpractice case? NO

Related cases pending: NO

If yes, list docket numbers:

Do you anticipate adding any parties (arising out of same transaction or occurrence)? NO

Are sexual abuse claims alleged by: Health Tech Harbor, Inc.? NO

THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE

CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION

Do parties have a current, past, or recurrent relationship? YES

If yes, is that relationship: Business

Does the statute governing this case provide for payment of fees by the losing party? NO

Use this space to alert the court to any special case characteristics that may warrant individual management or accelerated disposition:

Do you or your client need any disability accommodations? NO

If yes, please identify the requested accommodation:

Will an interpreter be needed? NO

If yes, for what language:

Please check off each applicable category: Putative Class Action? NO **Title 59?** NO **Consumer Fraud?** NO

I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with *Rule 1:38-7(b)*

04/21/2021
Dated

/s/ MITCHELL J MALZBERG
Signed

Attachment No. 2

BERGEN COUNTY COURTHOUSE
SUPERIOR COURT LAW DIV
BERGEN COUNTY JUSTICE CTR RM 415
HACKENSACK NJ 07601-7680

TRACK ASSIGNMENT NOTICE

COURT TELEPHONE NO. (201) 221-0700
COURT HOURS 8:30 AM - 4:30 PM

DATE: APRIL 21, 2021
RE: HEALTH TECH HARBOR, INC. VS HAN BENEFIT ADVANTA
DOCKET: BER L -002665 21

THE ABOVE CASE HAS BEEN ASSIGNED TO: TRACK 1.

DISCOVERY IS 150 DAYS AND RUNS FROM THE FIRST ANSWER OR 90 DAYS
FROM SERVICE ON THE FIRST DEFENDANT, WHICHEVER COMES FIRST.

THE PRETRIAL JUDGE ASSIGNED IS: HON PETER G. GEIGER

IF YOU HAVE ANY QUESTIONS, CONTACT TEAM 002
AT: (201) 527-2600.

IF YOU BELIEVE THAT THE TRACK IS INAPPROPRIATE YOU MUST FILE A
CERTIFICATION OF GOOD CAUSE WITHIN 30 DAYS OF THE FILING OF YOUR PLEADING.
PLAINTIFF MUST SERVE COPIES OF THIS FORM ON ALL OTHER PARTIES IN ACCORDANCE
WITH R.4:5A-2.

ATTENTION:

ATT: MITCHELL J. MALZBERG
MITCHELL J. MALZBERG, LLC
6 EAST MAIN ST STE 7
PO BOX 5122
CLINTON NJ 08809

ECOURTS

Attachment No. 3

Case Summary

Case Number: BER L-002665-21

Case Caption: Health Tech Harbor, Inc. Vs Han Benefit Advanta

Court: Civil Part

Venue: Bergen

Case Initiation Date: 04/21/2021

Case Type: Book Account (Debt Collection Matters Only)

Case Status: Active

Jury Demand: None

Case Track: 1

Judge: Peter G Geiger

Team: 2

Original Discovery End Date:

Current Discovery End Date:

of DED Extensions: 0

Original Arbitration Date:

Current Arbitration Date:

of Arb Adjournments: 0

Original Trial Date:

Current Trial Date:

of Trial Date Adjournments: 0

Disposition Date:

Case Disposition: Open

Statewide Lien:

Plaintiffs

Health Tech Harbor, Inc.

Party Description: Business

Attorney Name: Mitchell J Malzberg

Address Line 1: 200 Murray Hill Parkway

Address Line 2:

Attorney Bar ID: 016641993

City: East Rutherford

State: NJ

Zip: 07073

Phone:

Attorney Email: MMALZBERG@MJMALZBERGLAW.COM

Defendants

Han Benefit Advantage, Inc. AKA Benadvance

Party Description: Business

Attorney Name:

Address Line 1: 411 Theo Fremd Avenue, Suite 132

Address Line 2:

Attorney Bar ID:

City: Rye

State: NY

Zip: 10580

Phone:

Attorney Email:

Case Actions

| Filed Date | Docket Text | Transaction ID | Entry Date |
|------------|--|----------------|------------|
| 04/21/2021 | Complaint for BER-L-002665-21 submitted by MALZBERG, MITCHELL J, MITCHELL J. MALZBERG, LLC on behalf of HEALTH TECH HARBOR, INC. against HAN BENEFIT ADVANTAGE, INC. | LCV20211025300 | 04/21/2021 |
| 04/22/2021 | TRACK ASSIGNMENT Notice submitted by Case Management | LCV20211027144 | 04/22/2021 |